

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SHAWN MICHAEL HERRON II,

Plaintiff,

Case No. 17-cv-10091
Hon. Matthew F. Leitman

v.

GARY BALIAN, *et al.*,

Defendants.

**ORDER (1) GRANTING DEFENDANT BALIAN’S MOTION TO DISMISS
FOR FAILURE TO SERVE PURSUANT TO FEDERAL RULE OF CIVIL
PROCEDURE 4(m) (ECF #17) AND (2) DISMISSING THE CLAIMS
AGAINST DEFENDANT BALIAN WITHOUT PREJUDICE**

On January 11, 2017, Plaintiff Shawn Michael Herron II brought this action against Defendants Gary Balian, John Ditchman, and Dan Wilkinson. Now before the Court is Defendant Balian’s Motion to Dismiss for Failure to Serve Pursuant to Federal Rule of Civil Procedure 4(m) (the “Motion”). (*See* ECF #17.)

On July 31, 2017, the assigned Magistrate Judge issued a Report and Recommendation recommending that the Court grant the Motion and dismiss Herron’s claims against Balian without prejudice (the “R&R”). (*See* ECF #20.) At the conclusion of the R&R, the Magistrate Judge informed the parties that if they wanted to seek review of her recommendation, they needed to file specific objections with the Court within fourteen days. (*See id.* at Pg. ID 151-52.)

Herron has not filed any objections to the R&R. The failure to file objections to an R&R waives any further right to appeal. *See Howard v. Sec'y of Health and Human Servs.*, 932 F.2d 505 (6th Cir. 1991); *Smith v. Detroit Fed'n of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to an R&R releases the Court from its duty to independently review the matter. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985).

Accordingly, because Herron has failed to file any objections to the R&R, **IT IS HEREBY ORDERED** that the Magistrate Judge's recommendation to grant the Motion is **ADOPTED**.

IT IS FURTHER ORDERED that (1) Balian's Motion to Dismiss for Failure to Serve Pursuant to Federal Rule of Civil Procedure 4(m) (ECF #17) is **GRANTED** and (2) the claims against Balian are **DISMISSED WITHOUT PREJUDICE**.

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

Dated: September 6, 2017

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on September 6, 2017, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(810) 341-9764